Real Estate Professionals and Underground Storage Tanks

An Information Booklet for Real Estate Agents/Brokers

May 2002

Idaho Department of Environmental Quality

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Visit us at our Internet site—http://www.deq.state.id.us

There's an Underground Storage Tank on the Property

What Do I Do?

Real estate agents/brokers may feel uneasy when they realize that a property they are showing or listing has or had underground storage tanks (USTs) on the premises. Part of this unease may stem from not knowing what needs to be done or who to turn to for assistance in dealing with USTs. If you are a real estate agent/broker who deals with USTs on properties in Idaho and would like to better understand how to handle them, this booklet is for you.

This Information Can Help You and Your Clients

This information may help your clients and customers by:

- Answering questions about USTs.
- Helping you understand the various options a seller or buyer has when an UST is on a property.
- Helping you direct a client who may need to contact the UST regulatory authority.
- Helping you direct a client who may need to find an UST technician or contractor.
- Telling you where to obtain more information on USTs.

So... What Do I Need to Know?

This section provides a framework for understanding how and why USTs are regulated in Idaho. The following pages contain common questions and answers about properties with USTs in the state. (Please note, however, that this booklet is only a "layman's" introduction. Page 11 lists sources of more complete information.)

What Is a Federally Regulated UST?

A federally regulated underground storage tank (UST) is a tank and any underground piping connected to the tank that is buried at least 10 percent underground. The federal regulations apply only to USTs storing either petroleum or certain hazardous substances. We are only addressing USTs that store petroleum within this booklet. If you have questions related to the storage of other substances, contact either the EPA or the Idaho Department of Environmental Quality (our regional offices are listed on the back of this booklet).

Some kinds of USTs are not covered by these regulations:

- Farm and residential tanks of 1,100 gallons or less capacity holding motor fuel used for noncommercial purposes.

- USTs with a storage capacity of 110 gallons or less.
- Tanks storing heating oil used on the premises where it is stored.
- Tanks on or above the floor of underground areas, such as basements.
- Septic tanks and systems for collecting storm water and wastewater.
- Emergency spill and overfill tanks.

Remember, even though a tank may not be regulated, if a release occurs then it can become regulated under state cleanup requirements.

USTs containing petroleum and certain hazardous chemicals are subject to federal, state, and—sometimes—local regulations. USTs are regulated because petroleum or other hazardous substances may leak from them into the soil and contaminate ground water or surface waters.

Who Is the UST Regulatory Authority?

The U.S. Environmental Protection Agency (EPA) has promulgated federal UST regulations. The information in this booklet is based on EPA UST regulations; these are the ones that Idaho UST owners and operators and property owners are legally held accountable for. The State of Idaho has the authority to require investigations and cleanups of releases from USTs. There may be other health and safety regulations at the local level which may apply to an UST and are not included here; contact your county permits division and the local fire department for further information.

Here are some of the things a real estate professional should consider when listing a property in Idaho that may now contain or in the past may have contained an UST.

Is There One UST or More on the Property?

Keep in mind that any property may contain USTs. They have been found in many unusual places, and some USTs do not give any visible indication of their presence below ground. Many converted properties, such as fast food restaurants, were previously gasoline service stations.

Examples of where USTs are commonly found are: gasoline stations, convenience stores, residences, trucking and busing terminals, railroad yards, airfields, and auto dealerships. Some places where USTs might not be suspected but where they have been found include: marinas, government facilities, schools, auto repair shops, race tracks, farms and ranches, factories, and retail facilities. A walk-through of a property may uncover indications of abandoned USTs; items to look for include:

The text of this booklet was produced by the Idaho Department of Environmental Quality and the Idaho Association of Realtors. The booklet contains information of value to real estate professionals who must work with properties in Idaho that either have or may have had one or more underground storage tanks that store petroleum. The booklet was produced with the assistance of the EPA's Office of Underground Storage Tanks. Please note that this booklet is intended only as a brief introductory guide for real estate professionals and their clients on UST management in Idaho.

- Old vent piping. Vent piping is usually found outside of structures, and it normally is 2 to 12 feet tall. Vents are normally made of 1½ to 2-inch galvanized piping and in many cases have a cap which looks like a mushroom on the top of the piping.
- Fill pipes. Fill piping is normally directly over the top of an UST. A fill pipe can be 2 to 4 inches in diameter. In most cases, the fill pipe will have a special cap that requires a tool for its removal or a cap with ears which locks it in place.
- Dispensers. Especially on former farm and gas station sites, the dispenser may still be standing. These units can be large like the one you use to fill your car with, or they can be a small pipe with an electric motor and hose attached.
- Abandoned piping. In many buildings that have changed their source of heat, you may find abandoned piping. This piping may be copper lines or galvanized pipe. There are normally two lines associated with an oil heat system. If abandoned lines run out through a wall, there is a good possibility that there is an UST on the other side. See more information on heating oil USTs beginning on page 6.

DEQ is the place to begin to investigate a property for USTs. DEQ maintains information on a large number of active and closed UST sites across the state. DEQ may already have information on a particular property. Have your client contact DEQ with the address or location of the property in question.

If DEQ Has No Record of an UST on the Property, How Can a Property Be Investigated for USTs?

A way to investigate a property for USTs is to have the property owner hire a contractor to conduct a home survey or an environmental site assessment of the entire property at the time of listing. Lenders often require a site assessment before they make a loan on certain types of commercial properties. Also, if you or the owner suspect that the property has or ever had USTs, and you list the property without confirming this, you run the risk of spending dollars to advertise a property, lining up a buyer, and then having the deal fall through if the potential buyer requests a site assessment and discovers an UST(s) and possible contamination.

The site assessment should be conducted by knowledgeable and experienced personnel. Your client may contact a DEQ regional office listed on the back of this booklet for answers to specific questions concerning site assessments in Idaho.

What About Possible Contamination from a Leaking UST?

The question of possible contamination from a leaking tank (past or present) will almost certainly come up in any transaction involving property which has or had an UST. If DEQ has information on a property, these records may shed light on this question. A thorough site assessment of the property should provide the UST owner with details on any contamination found. Any past or newly discovered contamination must be disclosed to any potential buyer and be reported to DEQ to determine if remedial action is warranted.

What If It Is Decided to Close an UST?

Often either a potential buyer or the lending institution will want an UST to be properly closed before a property sale occurs. There are specific requirements the property owner must follow for proper closure of an UST. EPA requires the following basic actions when closing an UST.

1. The regional DEQ office servicing the area must be notified at least 30 days before the UST is scheduled for closure. (Call the DEQ regional office again 48 hours prior to the scheduled closure date as well.) DEQ must monitor the actions taken at the site.
2. Determine if spills or leaks from the UST have contaminated the surrounding environment. The results of monthly leak detection methods which include vapor or groundwater monitoring can be used to show that the site is not contaminated. Otherwise, a site assessment needs to be completed (if it hasn't already been done).
3. The UST must be emptied of liquids, dangerous vapor levels, and accumulated sludge and then be removed. These potentially hazardous actions need to be carried out by trained and experienced personnel who carefully follow standard safety practices. After the tank has been properly emptied, it must be either removed or closed in place.

What If an UST Will Remain in Operation?

Any contamination from past or present leaking USTs on the property must be addressed by the property owner in cooperation with DEQ. If an UST will be kept in operation after the sale, potential buyers may want to know if it is in compliance with EPA UST regulations.

For USTs storing motor fuel, used oil, or bulk heating oil not consumed on site:

- The UST must be registered. EPA regulations require that a regulated UST be registered with DEQ.
- The UST must have spill protection. The UST must have a catchment basin to contain spills which may occur when the delivery hose is disconnected.
- The UST must have overfill protection. Overfills usually release much larger volumes of fluid than spills. The use of overfill protection devices (such as automatic shutoff devices, overfill alarms, and ball float valves) can help prevent overfills that can occur during delivery.
- The UST must have a leak detection system and be checked regularly for leaks. Every UST must have a properly maintained leak detection system. USTs must be checked for leaks on a regular basis.

- An UST with corrosion protection must be tested and inspected regularly. An UST made of noncorrodible material such as fiberglass does not need corrosion protection. An UST (and any piping) made of a corrodible material like steel must have a way of preventing the corrosion, which can cause leaks. The tank and its corrosion protection system must be tested and/or inspected at least once every 3 years.
- The tank owner/operator must demonstrate pollution liability coverage. Financial responsibility regulations require that an owner or operator have the resources to pay for costs associated with cleaning up releases and compensating third parties in the event of a leak or spill.
- The tank owner/operator must keep records of tank operation. An UST owner/operator must keep records of: tank installation and upgrades, maintenance, and repairs; maintenance of the leak detection system and leak detection monitoring; documentation of corrosion protection and testing; and any releases and corrective actions taken. Also, accurate inventory records must be kept.
- The tank owner/operator must report releases and take corrective action to clean up contamination. Any suspected releases must be reported to DEQ. If a release is confirmed, the owner must also report follow-up actions planned to correct the damage caused by the release.

Property owners should contact DEQ or EPA if they have questions on compliance issues.

Underground Heating Oil Tanks

There are thousands of unused underground residential heating oil tanks in existence and many still contain heating oil. These tanks are typically 300 to 500 gallons in size and made of 12 gauge steel (about 1/8 inch thick). They average about 30 years before corrosion makes them prone to leaking, but the life of individual tanks varies widely depending on the properties of the surrounding soil.

A leaking underground residential heating oil tank—or even an empty one—can cause problems. For instance:

- The property owner can be held liable for damage caused by contamination from a heating oil UST.
- Leaks can contaminate soil on the site and neighboring property.
- Leaks can contaminate ground water and possibly the residents' well water.
- Cave-ins can happen when tanks deteriorate from corrosion and the tank walls collapse.
- More and more lending institutions and buyers require closure of unused heating oil tanks before they will finalize a residential sale.

Closing a Home Heating Oil UST

This is only a general guidance document and does not cover everything required to properly close a heating oil UST. The action of immediate concern is to find out what is in the tank.

Most underground residential tanks are easy to find. Try following the fuel lines from the house, or use a hand probe or metal

detector if the location of the UST is unknown.

To find out if there is still oil in the tank, remove the fill pipe cap and "stick" the tank (this means inserting a long stick to the bottom of the tank to see if it comes out with oil on it). Sometimes a tank will contain oil and water, or primarily water (the water will settle to the bottom, the oil will float on top). Buy an inexpensive paste from a heating oil company that will react with water by turning color. Put some on the stick when checking for the contents of the tank. If oil is in the tank, an odor from the fill pipe or stick should be noticeable.

Talk to your local fire department and building department before undertaking the following actions. Ask about permits, inspections, or other requirements that may apply. Regulations and policies vary from place to place, and may change in the future. DEQ recommends that an experienced professional UST technician be used when conducting the following work.

The following are two options for closing underground residential heating oil tanks.

1. Fill the tank in place, after removing the fuel and cleaning it.

This is a popular remedy for residential tanks, particularly if removal is not possible. But before choosing this alternative, consider the future of your property. Potential buyers or lenders may require you to remove the tank. Also, if you fill a tank in place you may not know if it leaked. It may have caused soil contamination, which may be contributing to ground water contamination. You can have the soil under the tank tested for contamination, but this is difficult when the tank is left in place and may cost more than removing the tank. Even if you sell the property, you could be held liable at some later date. See the section entitled "Contamination" (page 9).

The tank should be pumped out and the inside cleaned before it is filled. There may be sludge left in the bottom of the tank after pumping which also needs to be removed. The sludge will vary in amounts from a trace to many gallons.

Tanks then are filled in place with an inert, solid material to prevent the tank from:

- Shifting or floating up in high ground water.
- Caving in as it deteriorates.
- Filling with vapors.
- Being used in the future.

Inert materials such as sand, gravel, foam, or a weak cement slurry are used to fill tanks. Each type of fill has advantages and disadvantages. Check them out before deciding which is right for your situation.

Semifluid materials, like foam or cement slurry, that are injected into the tank do a better job of filling than sand or gravel. DEQ generally discourages the use of gravel as fill because it does not prevent future use of the tank for disposal of hazardous liquids. Foam should not be used where there is high ground water, because it will not anchor the tank.

2. Dig the tank up and remove it.

DEQ recommends this as the best way to close a heating oil UST because:

- You can find and clean up contamination from past leaking and spilling.

- Your location can be documented as "clean" (see the section entitled "Contamination" on page 9).
- Many buyers and lending institutions require the removal of unused tanks as a condition to a property transaction.
- Some fire departments require unused tanks be removed where possible.

The tank should be pumped out and the inside cleaned before it is removed. There may be sludge left in the bottom of the tank after pumping, and this also needs to be removed. The sludge will vary in amounts from a trace to many gallons.

When removed, the unearthed UST must be disposed of properly. It cannot be illegally dumped, should not be stored at a residence, and must be cleaned before being recycled as scrap metal. If it is intended to dispose of the cleaned tank intact, make sure there is a recycler or a landfill in the area that will accept it.

Procuring Services

Many companies provide services for residential tanks, including pumping, cleaning, filling, removal, and disposal. Some provide all these services, some specialize in one or another.

Pumping

The heating oil left in unused tanks is considered waste oil, and the companies that sell and distribute heating oil usually will not pump it out or take it back. To find companies that will pump out the tank, look in the telephone directory yellow pages under "Recycling." Pumping is not the same as cleaning, and both may need to be done.

Cleaning, Filling, and Removal

Look in the yellow pages under "Tanks" or "Tanks—Removal," or contact the DEQ regional office that serves the area where the UST is located (the regional offices are listed on the back of this booklet).

Costs

The cost of these services will vary depending on the size, location, accessibility, and other special problems of the job. Costs vary among companies performing the same services, too. The following are approximate cost guidelines:

- Pumping (oil only): $0–$l00. If the tank contains a lot of oil (200+ gallons), some companies will not charge for pumping.
- Cleaning: $200–$500
- Filling: $300–$1,000 (type of fill material may affect cost)
- Removal/Disposal: $400–$2,000

Money can be saved by having one company perform several services at one time. Or one may be able to negotiate a price break if several residences in the same neighborhood have services performed at the same time.

Companies that clean tanks and/or recycle waste oil always have to consider the possibility that there may be hazardous substances in the waste oil or sludge. They must include testing and handling costs when filling or removing a tank, and that affects the cost.

Warning: Working on an underground storage tank can be dangerous. Under certain conditions these tanks may explode. The excavation pit, handling of the heavy tank, and use of power equipment may also pose risks. Never enter an underground storage tank, even if it has been cut open. Care should be used to reduce risks to life and the environment.

People working on the UST should have the appropriate knowledge, experience, and training to perform this work.

Contamination

Contamination from residential heating oil tanks is of concern to owners, buyers, and lenders because of potential liability.

Under the Idaho Water Quality Standards and Wastewater Treatment Requirements, UST owners must report to DEQ all releases of petroleum products which may pose a threat to human health and the environment. If the soil around the site of the removed tank is stained and smells strongly of oil, contact the nearest DEQ regional office (the regional offices are listed on the back of this booklet).

If professional documentation is needed for the removed or filled-in-place tank site to demonstrate that it is not contaminated, an environmental consultant may be hired to take soil samples for analysis. DEQ cannot perform this service. Consultants usually take at least two samples, one from beneath each end of the tank. The costs for professional documentation and analysis vary widely. Look in the yellow pages under "Environmental Services," or call the DEQ regional office that serves the area where the UST is located (see the back of this booklet). They may be able to help find contractors that do this type of work. Some companies that provide other tank services also provide this service.

If the Heating Oil Tank Is Still in Use

Many home heating oil tanks are 30 to 50 years old, and nearing (or past) the time when they will begin leaking. A small pinhole leak undetected over a long period of time may cause major contamination and liability problems. Here are some tips for determining if the tank leaks:

- If the furnace seems to be using more fuel than usual, the heating oil tank may have developed a leak. (Consider other possible factors for variable fuel usage, such as unusual weather or furnace malfunction.)
- Is there water in the tank? Stick the tank, using water reactive paste on the stick, to find out. A small amount of water is normal, but several inches may mean water is getting in through a hole in the tank, which means oil could be getting out.

During the summer, when the furnace is not used, carefully measure and record the level of the fuel in the tank. Make sure the furnace (or any other appliance, such as a water heater) is completely off. Wait as long as possible, keeping the furnace off (preferably at least 2 weeks, but the longer one waits, the smaller the leak one will be able to detect), then measure the fuel again. If the level is down, the tank is probably leaking. If the level is up, check to see if water is entering the tank, as described earlier.

Some companies will perform sophisticated leak detection tests at a cost of $300–$500. Look in the yellow pages under "Tank Testing and Inspections." DEQ strongly recommends that you use an experienced professional UST technician if you are having your heating oil tank tested.

Pollution Liability Insurance Required?

Idaho's Petroleum Storage Tank Fund (PSTF) operates as a nonprofit insurance company and is responsible for administering the Idaho Petroleum Clean Water Trust Fund. The petroleum liability insurance policies issued to owners and operators of regulated USTs through the PSTF fully satisfies the federal financial responsibility requirements. The PSTF also provides insurance coverage to owners of all eligible unregulated above ground and underground petroleum storage tanks, including farm, ranch, home, and commercial heating oil tanks.

Petroleum spills and leaks account for a significant number of costly environmental problems. Tank owners should be aware that they can be held financially responsible for cleaning up the contaminated area and satisfying compensatory damage claims to third parties who have suffered bodily injury or property damage arising out of such a spill or leak.

Tank owners should also be aware that most commercial and homeowner's insurance policies contain what is commonly referred to as an "absolute pollution exclusion" which specifically excludes pollution-related claims.

For the annual total cost of $5 per heating oil tank and $25 for all other eligible regulated and/or unregulated petroleum tanks, the PSTF can provide owners coverage for the following:

- Accidental releases which commence during the policy period.
- Approved petroleum cleanup costs.
- Third-party bodily injury and property damage arising from an accidental release.

PSTF's policy *does not* provide coverage for preexisting contamination or tank installation, removal, repair, or replacement.

For more information, please contact:

Petroleum Storage Tank Fund
1215 West State Street
Boise, ID 83720
Phone: (208) 332-8100
or (877) 997-7664

Further Information on USTs

Where to Find the Legal Statutes and Regulations
and Other Publications and Information
on Underground Storage Tanks

❑ Call NCEPI toll-free at 1-800-490-9198 for a free copy of these EPA publications on USTs. These publications can also be accessed on the EPA Office of Underground Storage Tanks Home Page at http://www.epa.gov/OUST/.

❑ *Don't Wait Until 1998* (EPA 510-B-94-002). Information to help owners and operators of USTs meet the 1998 deadline for compliance with requirements to upgrade, replace, or close USTs installed before December 1988. [16 pages]

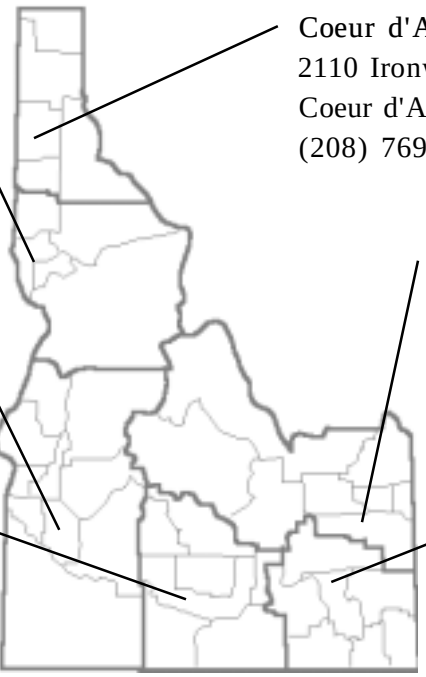
❑ *Musts For USTs* (EPA 510-K-95-002). Clearly summarizes federal UST requirements for installation; release detection; spill, overfill, and corrosion protection; corrective action; closure; reporting; and recordkeeping. [40 pages]

❑ *Dollars and Sense* (EPA 510-K-95-004). Clearly summarizes the financial responsibility required of UST owners and operators by federal UST regulations. [16 pages]

❑ *Straight Talk on Tanks* (EPA 510-B-97-007). Explains federal regulatory requirements for leak detection and briefly describes allowable leak detection methods. [16 pages]

❑ *Idaho UST/LUST Information Series and Interactive Web Site*. See www2.id.us/deq/. Look for UST/LUST information under the Waste Management & Remediation page. Find guidance on UST closure/tank removal, site assessments, registration and closure forms, Risk-Based Corrective Action (RBCA), and petroleum release reporting. Get UST/LUST facility information through the Interactive Mapping of UST/LUSTs site. If you have questions contact DEQ at (208) 373-0502.

DEQ Regional Offices



Lewiston
118 F Street
Lewiston, ID 83501
(208) 799-4370

Coeur d'Alene
2110 Ironwood Parkway
Coeur d'Alene, ID 83814
(208) 769-1422

Boise
1445 North Orchard
Boise, ID 83706
(208) 373-0550

Idaho Falls
900 North Skyline
Idaho Falls, ID 83402
(208) 528-2650

Twin Falls
601 Pole Line Road
Suite 2
Twin Falls, ID 83301
(208) 736-2190

Pocatello
224 South Arthur
Pocatello, ID 83204
(208) 236-6160

DEQ and EPA can provide technical information and furnish other assistance such as tank histories. They can also help direct you on how to find companies that do tank work for your clients and customers. Contact:

- Idaho Department of Environmental Quality
  Underground Storage Tank Program
  1410 North Hilton, Boise, ID 83706
  Phone: (208) 373-0502
- U.S. Environmental Protection Agency
  Office of Underground Storage Tanks
  401 M Street SW
  Washington, D.C. 20460
  Phone: (703) 603-9900